Affordable Housing- Low Income Housing Tax Credit

- Section 42 was enacted as part of the Tax Reform Act of 1986. The provision was designed to curb abusive tax shelter transactions in which depreciation deductions where sold to investors in exchange for an investment in development projects largely subsidized by a combination of tax exempt debt, FHA backed mortgages and HUD assistance.

- As a result of the credit and the tax exempt private activity bond program more than 1.5 million units of affordable housing have been built in urban, suburban and rural communities around the country. In many cases abandoned historic properties have been rescued and now serve as safe and affordable homes for working Americans.

- However, over the last 20 years the financial and housing markets have undergone significant change. Two decades of administering the provisions has also shown what works and what needs to be altered to maximize efficiency and minimize waste in the program. For these reasons a careful look at where we are and where we need to go is timely and necessary.

- Policy considerations include: (1) whether states should be granted greater flexibility to administer and ensure program integrity; and, (2) whether and how the program can address new and continuing affordable housing needs.

- Proposals to modernize the housing credit fall into three broad categories, and are designed to: (1) streamline the process for families: (2) facilitate increased investment in affordable housing projects; and (3) increase flexibility and efficiency for states.

Examples of proposals to streamline process for families

- Eliminate from the income calculation the housing allowance for military families to enable greater use of housing program. §42(g)

- Clarify student rule to permit both student parents and student children to qualify for residence. §42 (i)(3)(D)

- Modify limitation on area median income (AMI) in high income urban and very low income rural areas where affordable housing is not widely available. § 42(g)(1)

- Adjust income ceilings in rural areas to increase available affordable units. §42(g)(2)

Examples of proposals to facilitate increased investment in affordable housing projects

- Clarify the utility allowance to enable landlords to better estimate future expenses and attract greater investment. § 42(i)(3)(D)

- Modify limitations on rent increases to take into account rising costs and ensure that property remains rented to the targeted population. § 42(g)

- Eliminate the prohibition on the use of the credit in Section 8 Moderate Rehabilitation properties.

- Modify rules to permit housing bonds to finance single-room occupancy housing.

- Permit land costs to be included in eligible basis to encourage projects in high cost communities. § 42(d)

Examples of proposals to increase flexibility and efficiency for states

- Allow 30% increase in eligible basis for properties that meet state-specified geographic or income targeting programs. §42(d)(5)(C)

- Modify "floating rate" credit calculation system to permit greater certainty and flexibility. § 42(b)(2)

- Exclude federal rental assistance payments from the definition of "federal grants."

- Eliminate 4% housing credit limitation for newly constructed or substantially rehabilitated federally subsidized buildings.

- Eliminate limitation to 30% of present value credit when federal subsidies (other than tax exempt debt) are involved. §42 (b)(1)(B)

- Modify the rule reducing creditable basis when project also claims the historic rehabilitation credit. § 42 (d)(5)(A)

- Raise the private activity bond cap.

- Allow states to reissue tax exempt debt that is redeemed within 5 years of the original issue if debt is replaced by a capital investment in the project. This permits states to "recycle" and develop more housing projects.

- Amend rules for projects under development affected by a casualty to permit extension of credit period.